

CITY OF MORGAN HILL
JOINT SPECIAL/REGULAR REDEVELOPMENT AGENCY AND
SPECIAL CITY COUNCIL MEETING
MINUTES - MAY 23, 2001

CALL TO ORDER

Chairman/Mayor Kennedy called the special and regular meeting to order at 6:02 p.m.

ROLL CALL ATTENDANCE

Present: Agency/Council Members Carr, Sellers, and Mayor/Chairman Kennedy
Late: Agency/Council Members Chang and Tate

DECLARATION OF POSTING OF AGENDA

Agency Secretary/City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

Redevelopment Agency and City Council Action

CLOSED SESSION:

Agency Counsel/City Attorney Leichter announced the following closed session item:

1.
CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION
Legal Authority: Government Code 54956.8 & 54956.9(c) (1 potential case)
Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)
City Negotiators: Agency Members; Executive Director; Agency Counsel; and F. Gale Conner, special counsel
Closed Session Topic: Potential Litigation

OPPORTUNITY FOR PUBLIC COMMENT

Chairman/Mayor Kennedy opened the closed session to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION:

Chairman/Mayor Kennedy adjourned the meeting at 6:03 p.m. to closed session.

RECONVENE

Chairman/Mayor Kennedy reconvened the meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

Agency Counsel/City Attorney Leichter announced that no reportable action was taken on the above listed closed session item.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Chairman/Mayor Kennedy, Robert Benich led the Pledge of Allegiance.

PUBLIC COMMENT

Mayor Kennedy reopened the floor to public comments for items not appearing on the agenda. No comments were offered.

CERTIFICATES OF APPRECIATION

Chairman/Mayor Kennedy indicated that Certificates of Appreciation would be presented to C.P. Chang, Wendell Nuss, Qing Wang, Kenneth Davidson and Robert Haney in Monterey on Friday, May 25, 2001 for their efforts to *Protect the Environment and the Health of Morgan Hill's Citizens*.

PRESENTATION

Recreation Manager Spear stated her appreciation to the City Council for its support of the *Art Ala Carte* program. She indicated that there were 36 sponsors from the community who contributed money, supplies and donations for this event with more than 450 individuals participating, assisted by volunteers from the community.

Chairman/Mayor Kennedy indicated that Board of Supervisor Don Gage was in attendance to participate in agenda item 1, the proposed Courthouse facility in Morgan Hill.

Redevelopment Agency Action

OTHER BUSINESS:

1. REPORT ON COMMUNITY WORKSHOPS REGARDING THE MORGAN HILL COURTHOUSE

Director of Business Assistance and Housing Services Toy presented the staff report. He recommended that the City Council accept the report prepared by Moore, Iacofano, and Goltsman (MIG), including the supplemental report prepared by County and City staff which contains written responses to the questions and concerns mentioned in the MIG report. He further recommended that the Agency hear public comments and then transmit the MIG report to the County for consideration

in their development of a Morgan Hill Courthouse that includes the site selection process.

Kate Welty, MIG, indicated that community workshops were held on March 26 and April 24, 2001. The purpose of the workshop was to educate the community about the planned courthouse development and to obtain feedback about the issues the community would like the City and the County to consider. MIG helped the city design the workshops to maximize the opportunity for public input and to make sure that everyone's comments were heard and recorded so that they could be accurately reflected to the City Council. The workshop began with an introduction and an overview of the purpose and the agenda. At the first meeting, the courthouse overview was provided by Mr. Toy as well as two representatives from the County. Also, present was Robert Shapiro from the court and Chief of Police Schwab. They presented a background and an overview of the planned courthouse development. They addressed their perspective of a courthouse. This was followed by public comment and a question/answer session. The public had a number of questions that evening and the meeting was used to achieve some clarification about the planned courthouse development. At the second meeting, staff returned with an open house format. At the beginning of the meeting, participants were asked to roam around the room and look at graphs and presentation materials that answered many questions that were asked at the first meeting. These questions pertained to: safety, track records around other courthouses in terms of neighborhood and public safety, traffic impacts, impacts on property values, how many other courthouses were built near residential areas, and identification of other sites being considered. While no site has been selected, she indicated that a preferred site is in place and the public was notified of this fact. The Diana/Butterfield site has been identified as the preferred site. She pointed out that many of the participants were residents of that neighborhood.

Ms. Welty indicated that individuals were advised that a report would be brought to the City Council this evening. She noted that many of the individuals in attendance also attended the workshop meetings. It is her hope that the Agency will hear first hand from these individuals their views and concerns previously expressed. She indicated that 22 community members and staff were in attendance at the first workshop and nearly 40 members at the second workshop. In addition to providing public comments, comment sheets were provided to anyone who wanted to express comments in writing. She stated that 12 comment sheets were returned: 1 written statement that dealt with impacts on property value and 9 written comments were submitted outside of the meeting primarily through e-mail. All of the communications have been synthesized and included in the summary of the report. Several of the participants spoke in support of the courthouse, believing that it would benefit the downtown area and raise the stature of the community. However, the majority of workshop participants strongly opposed the development of the courthouse. Concerns expressed were as follows: a courthouse would compromise the small town feel of Morgan Hill; it would increase traffic and traffic speeds; it would compromise neighborhood safety and potential security impacts on the surrounding neighborhoods; it would adversely affect property values; and the lack of public input prior the signing of the City and County agreement.

Ms. Welty stated that public comments were detailed in the report to the Agency Commission. The Agency Commission has been given all written comments as attachments to the document for its review. She stated that even those who spoke in favor of the courthouse had some suggestions as to what the courthouse should look like. It was recommended that the City pay close attention to

architecture and the use of public art. It was further recommended that rather than calling it a South County Justice Center, it be referred to as a courthouse. Others felt that the courthouse should not be located anywhere near a residential area and that there was also strong opposition to locating the courthouse in the downtown area. People felt that the benefits to the downtown neighborhood would not be necessarily as strong as proposed. Individuals were concerned about increased traffic and did not see the benefit to Morgan Hill with increased foot traffic and traffic. She stated that a specific request was made to hold a community forum prior to site selection. Individuals were concerned that Measure D did not indicate that a courthouse would be included. They also felt that public input on RDA funds should be required for large projects of this nature. Citizens were hoping to have an audience with the County Board of Supervisors. She indicated that she would be happy to answer any questions that the Agency may have.

Mr. Toy made a brief presentation on the supplemental report which provided more detailed written responses to the questions and comments contained in the MIG report. He indicated that the comments were prepared with the help of County staff. He stated that staff's responses were limited to the questions and concerns relating to design issues. He noted that verbal responses were provided to many comments presented at the community workshops. He stated that the responses are listed by issue areas, with the main issues mentioned in the MIG report as follows: courthouse location and amenities, traffic, safety & security, public input/information, and other considerations.

Chairman Kennedy opened this item to public comment.

Robert Benich spoke in support of a new South County Superior courthouse to be located at Butterfield and Diana Avenue. He supports the construction of a new Morgan Hill police station to be collocated on the same property. He felt that: 1) the location was ideal being on a VTA bus route, close to the Caltrain station, easy access to Highway 101 and within walking distance of the downtown. 2) A superior courthouse will be an asset to the city and would allow citizens and south county residents to conduct courtroom business without having to travel to San Jose. 3) The stature and prestige of Morgan Hill would be improved with a well-designed courthouse building and a new police station. He stated that his comments are based on a well designed and aesthetically pleasing building. The City must not repeat another San Martin courthouse by building a low-cost building that has no redeeming value. A new superior courthouse in Morgan Hill must look and feel like a courthouse and be a structure that the citizens can be proud of. He requested that the City Council consider the needs of all present and future citizens of Morgan Hill and south county and not just the desires of a vocal minority who live in the vicinity of this piece of property. He felt that it would be a wise use of RDA funds to utilize the same architect, general contractor, and landscape company to collocate a new police station and have it built at the same time as the superior courthouse. To do this, would demonstrate the Agency's leadership qualities and the ability of City government to spend public funds in the most efficient manner to benefit the majority of citizens.

Sunday Minnich, representing the Morgan Hill Chamber of Commerce Board of Directors, the Economic Development Committee and the Downtown Executive Committee, stated their support of a courthouse in Morgan Hill and the preferred site at Butterfield and Diana Avenue. The Morgan Hill Chamber of Commerce chose to support this site because it is located on a major thoroughfare and is readily accessible. It is also located adjacent to public transit venues. She felt that the project

may encourage Caltrain to bring much needed trains southbound. A courthouse will not only add 90 employees to the downtown, but will also include lawyers, judges and jurors to boost foot traffic. The community will no longer have to go to San Jose or San Martin for court services which would assist in reaching a goal of becoming a full service city. She noted that research has proven that a courthouse does not pose a safety hazard as it would provide additional security resources. Cities are built around courthouses and that it is the Chamber's hope that one will be built in Morgan Hill. The Chamber does not believe that a courthouse would compromise Morgan Hill's small town feel any more than any other business that decides to relocate in Morgan Hill. The courthouse would help support the "smart growth approach." She stated that the Chamber of Commerce encourages the Redevelopment Agency to move forward with this project and stated its support of the preferred site.

Donna McIntosh read into the record a letter she submitted to the editor of the Morgan Hill Times. She stated her opposition to locating the proposed south county courthouse in or near downtown Morgan Hill. She felt that a modern courthouse was similar to that of a commercial center with similar impacts to surrounding land uses. The proposed courthouse would include six court rooms and a 61,000 square foot facility and a 350-space parking lot. Traffic to the courthouse is projected at 1,000 trips per day. These land use impacts include considerable additional traffic congestion near and about downtown. A vacant ghost town setting for the buildings and parking lots during evenings, weekends and holidays would occur. The size of the building would be out of character with the rural downtown store fronts. The new draft General Plan envisioned Morgan Hill as keeping its small town character while offering new opportunities for businesses and amenities for residents. She did not believe that a large courthouse facility in the downtown supports a small town atmosphere. The draft General Plan vision statement also calls for encouraging uses such as restaurants and specialty retail in the downtown area. The new community center is a good example of meeting the downtown vision. She felt that the current zoning of the preferred site is consistent with the zoning designation and the vision for the community which does not include a courthouse facility. The economic benefits of a courthouse in the downtown have been promoted. If these benefits are so great, she asked why other large employers are located in the fringes of Morgan Hill instead of the downtown? She did not believe that the City should offer a courthouse site to the County that is not currently zoned for compatible uses, noting that the appropriate designation for the courthouse should be a commercial designation. Before any change in zoning takes place, the citizens of Morgan Hill should have a voice if a project is to deviate from the General Plan. She did not believe that a courthouse is needed in the downtown to gain stature as Morgan Hill is an established and respected community. She requested that the city not ignore its planning and vision documents and that it keep its downtown pedestrian and family-friendly. She requested that the large courthouse facility be kept out of the downtown.

Stephanie Short informed the Agency Commission that she is part of a group that is circulating a petition throughout Morgan Hill. She is currently representing 100 signatures on the petition. She stated that she was surprised to find that 90% of the individuals who signed the petition were not aware of the proposed courthouse until she brought it to their attention. Those she contacted are opposed to the courthouse. She indicated that she would be presenting the City Council with the petition signatures as they are gathered.

David Detmers said that he too has found that the majority of the residents he has approached are unaware of the courthouse. He read into the record a letter he is submitting to the editor of the Morgan Hill Times stating his strong opposition to locating the south county courthouse in Morgan Hill as the courthouse will adversely affect Morgan Hill's small town, family-friendly atmosphere. As the courthouse will handle all civil and criminal cases for the entire area, including San Jose and Gilroy, this would place an unfair burden on the community. For the safety of his family and the community, he objected to busing shackled prisoners under armed guard into the community on a daily basis. He felt that even more dangerous would be the operation of a probation department. This would create a revolving door of convicted criminals and their associates entering Morgan Hill unsupervised. He did not want parolees and their friends loitering in the town, casing the neighborhoods or loitering in the parks and schools where they can prey upon children. He did not believe that Morgan Hill should be spending \$7 million of RDA funds on a county courthouse. He felt that these funds should be invested in retail businesses that citizens want to patronize so that the community can capture the revenues and taxes in Morgan Hill instead of spending shopping dollars in San Jose and Gilroy. He felt that while other communities are attracting valuable retailers such as Costco, Home Depot, Toys R Us, city leaders seem determined to transform Morgan Hill into the criminal processing center for the entire south county. He noted that a courthouse, as a center piece of the downtown, is not mentioned in the General Plan. He felt that it would make sense to refurbish and expand the San Martin county facility located away from schools, homes, parks and a downtown area. He urged all Morgan Hill residents concerned about preserving the safety of the community to put pressure on elected officials to keep the south county courthouse out of Morgan Hill and away from children.

Russ Keller stated that the MIG report does not reflect the passion of residents against the courthouse. He did not believe that county officials care whether the council members in Morgan Hill represent the citizens properly as long as they acquire space to meet their needs. He stated that this is not just a neighborhood issue. Many of the individuals he spoke with are opposed to the idea and are shocked to hear about the courthouse. He felt that this would be misuse of RDA funds and that it would be inappropriate for the vision of the community. He researched the campaign statements for each council member in the last couple elections and found the following: Council Member Chang - her goals for the community were to maintain a rural atmosphere by planning and controlling growth and preserving open space. He did not believe that a courthouse was in line with this goal. Mayor Kennedy - Top priority is to preserve Morgan Hill's small town rural character. He did not believe that a courthouse fell in line with this goal. It does not fall in line with the fact that Mayor Kennedy feels that the City needs to build a much needed community center and recreational facilities. He felt that a courthouse would be a bad fit with a community center. Now that the proposed site is out, the land value would be more expensive. Council Member Tate - It was his belief that local government's primary responsibility is to provide for the safety of the community. Mr. Keller agreed with this statement and did not believe that a courthouse is in line with Council Member Tate's goal. Council Member Tate's bio states trust and accountability of council members' action and that he wants to be held to the highest standards of performance when he serves the community as a council member. Mayor Pro Tempore Sellers - Statements include maximizing RDA funds to achieve community goals. Under public safety, he states that if the community does not feel secure in their homes and neighborhoods, nothing else matters. He indicated that he could not find stated goals for Council Member Carr. However, he has spoken with

Council Member Carr and that he knows his feelings on this issue.

Nancy Domnauer stated her opposition to the construction of a county courthouse in Morgan Hill. She stated that she has several issues with the supplemental report presented this evening. She requested that she be allowed to view this document. She noted that staff responded that transit would be adequate and stated that she needs to hear more about this statement. Staff also presented that one of the potential sites would require citizens' input with staff indicating that it would forward comments to the County. She clarified that the residents want to be notified of the potential site. She indicated that residents are circulating a petition that states residents are opposed to building a south Santa Clara County justice center and courthouse in Morgan Hill. She indicated that the petition has been circulated for the past couple of weeks and that the residents have secured well over several hundred signatures and that the petitions would continue to be circulated. She stated that those in opposition to the courthouse are a group of concerned citizens living in an area of the only site that has been identified. If other sites were identified, the Council would be hearing from these residents as well. Therefore, this is not a minority group in opposition.

Jean Vandagriff stated that she would like to see this area of the downtown kept as a gateway to Morgan Hill, noting that this is where the train comes in. She felt that the city has to have something built that represents the city and not a new county cement building. By building a courthouse in the Butterfield/Diana area, it would separate the residents from the new recreational facility. She noted that last week, the bowling alley closed down and that she has heard that the soccer fields are leaving. Construction of a courthouse would eliminate the roller skate park. She felt that more recreational activities are needed for children. She recommended that a park be built instead that could be used as a farmer's market, to be used as part of the Fourth of July activities, or can be used by the community. The proposal is to construct a 60,000 square foot facility on six acres. She felt that these six acres can be used for the youth of the community. She stated that the courthouse in Palo Alto is located on California Avenue which is located in the old mid town area, between Palo Alto and Los Altos. She recommended that this land be saved. If a courthouse is to be built, she recommended that it be built away from the downtown area. She noted that many individuals moved to Morgan Hill because of the small town atmosphere.

Jacklin Cordes finds it ludicrous that in Lisa Pampush's article relating to Megan's Law lists great statistics but fails to mention that many more high risk sexual predators would be brought into town each day by a courthouse. She did not believe that local law enforcement would know who they were, where they live or their preference. The threat of crime is important but felt that the courthouse issue encompasses far more. She stated that residents are upset that city officials have not been honest and forth right about the courthouse. When residents voted to agree to extend redevelopment in 1999, citizens read a plan that talked about beautifying the city and making Morgan Hill a family, friendly community. Most residents did not know that a courthouse was listed on page 38 of a 38-page document. The City mailed out a beautiful brochure recently on future projects but failed to mention the courthouse. Residents are upset that the city wants to spend \$7 million in redevelopment money to build this facility and is telling residents that it would raise money by bringing businesses to the downtown. She felt that the city would loose millions of dollars in incremental taxes. These taxes could have supported future redevelopment projects that benefit the community's children. Residents are upset that the city is not publicizing the fact that the

courthouse will be drawing 1,000 cars per day. The city is now publicizing that they would be allowing 350 parking spaces but are not publicizing that they want to make Butterfield into a six-lane race track to accommodate the increased traffic. Residents are concerned that the city is willing to place a courthouse adjacent to a youth center and then increase access by building a bridge to connect the two. Another concern is that the city has given the county seven locations to choose from, yet will only tell the community about this site. Given that the city and county are willing to place a courthouse between an elementary school and a community center, citizens are concerned where else it might go. Also, of concern is the fact that the city wants to bring a six-room courthouse to a city that has a maximum of six police officers on duty at any given time, assuming that no one is sick, injured or on vacation. The city is also telling the residents that the facility will not hold a jail, noting that the agreement states that the County will seriously consider the city's request for a 24-hour holding facility. She informed the Agency Commission that the residents are taking a stand because they do not believe that the city is acting in their best interests. She recommended that the courthouse be placed in south San Jose where they have more crime.

Randy Hollis addressed an e-mail he sent to the City's general mail box and thanked Council Member Carr for his response. He stated that he lives in a Sunrise Meadows BMR unit and indicated that his backyard faces Butterfield Boulevard. When he moved in, one of his main concerns was the main thoroughfare and increased traffic coming through from development to the south. He was advised by staff that the proposed alternate was going to be Santa Teresa Boulevard which would be widened in the future. He felt that this plan must have been shut down because the main arterial goes through his backyard. He noted a business park opening along Butterfield that is further increasing traffic. Now, the city is telling him that they want to build a courthouse facility in his backyard. He stated that safety was never a concern to him. He knows that courthouses are safe due to the increased presence of sheriff deputies and police officers. His main concerns were traffic and noise pollution. He indicated that his wife suffers from chronic fatigue immune deficiency syndrome and other illnesses, all of which require rest. He said that it is becoming difficult to achieve rest with increased traffic in his backyard. He felt that the city misrepresented information when he was accepted into the BMR program when staff told him that Santa Teresa was going to be the main thoroughfare. Had he known that Butterfield was going to be the main thoroughfare, he would not have moved into the BMR unit. He noted that Section 8 houses are located along Butterfield Boulevard and Dunne Avenue, BMR sweat equity units between Diana and Main Avenues, and a business park going on with more Section 8 housing at the intersection of Cochrane and Butterfield. If the City of Morgan Hill proceeds with the courthouse without offering adequate compensation to the residents of the surrounding neighborhood, he felt that a class action suit would follow. He stated that he plans to follow suit based on the misrepresentation of the city when he was accepted into the BMR program. He requested that the City copy his attorneys, paralegal, and Representative Lofgran on any future correspondence or replies.

Roman Robles expressed concern and opposition to the construction of a courthouse behind his home. He indicated that he is a VTA driver and drives near the courthouses located throughout the County. He said that it is scary to hear some of the conversations from individuals he takes to and from the various courthouses in the County. He stated that he would not allow his daughters to walk near his home if the courthouse is built, regardless of how beautiful the building is. He asked why the City is negotiating with this property owner if the owner is already aware of the city/county

plans? He stated that all of the other VTA drivers and coworkers that he has spoken to are opposed to the courthouse with the exception of one individual who was pro growth.

Shawn Brewer stated that he was informed of the courthouse two days ago. He felt that the City was deceitful and that the courthouse was not disclosed to the citizens of Morgan Hill. He stated that he makes deliveries to downtown San Jose and that he did not see any public schools in the vicinity of a courthouse. He noted that an elementary school, junior high, and high school are located not far from the proposed courthouse. He felt that the city would have sexual predators coming into the community. He stated that he would not allow his children to walk to school if the courthouse is built. If a courthouse is to be built, he recommended that it not be built in the middle of the public schools in Morgan Hill as it would be immoral to do so. He felt that individuals on probation would be walking around an area located within walking distance to schools.

Laura Brunton indicated that she grew up in a small town which included a courthouse, jail, and schools. She said that the real estate property values were the highest in that community. She stated that she understood the emotions of the individuals who have been speaking. However, she felt that these individuals still have to consider the economics of having a courthouse in the community. She stated that if she was a criminal, she would not want to visit a courthouse where there are several police officers in the vicinity. She requested that the Council make a good decision.

Brad Ledwith, Member of the Board of Directors of the Chamber of Commerce, reiterated the Chamber of Commerce's support of a courthouse in the downtown.

No further comments were offered.

Agency Member Sellers stated that it was his understanding of the process that the Agency Commission would hear public comments this evening. He informed the public that he has read every e-mail sent to him and that he has considered every comment that has come through the public hearings, MIG Report, supplemental report, as well as the comments expressed this evening. He requested that the minutes of this evening's meeting be transmitted to the County for their consideration. It was his understanding that the Agency Commission was to hear comments this evening to ensure that it has received adequate public comment and then forward these thoughts to the County at such time that a particular site is selected. It was his belief that at that time, the Agency Commission would go through a discussion with the community on the merits of the site. He requested that the process be clarified.

Mr. Toy informed the Agency Commission that staff is recommending that the Agency Commission transmit the MIG and supplemental reports, including the minutes from this meeting, to the County for their consideration in the development of their Courthouse as well as their site selection process. At this point, it would be up to the County to consider the information and then advise the Agency Commission how they would like to proceed.

Agency Member Sellers asked Supervisor Gage as to his thoughts of how he would proceed.

Supervisor Gage stated that he was present to collect comments expressed this evening. The comments would be forwarded to County staff for their review in order to make a determination on the preferred site. He stated that he would be happy to return to the City at that time with County staff and present the findings. At that time, the Agency Commission can make its decision or ask any additional questions that it might want to ask. He did not know the timing of this process as it would take County staff time to conduct the review and come to a final determination. The County would notify the Executive Director as to the preferred site(s) and then present it to the Agency Commission.

Vice-chairman Carr thanked Supervisor Gage for being in attendance to hear these comments. He said that a lot of his neighbors present this evening wanted to make sure that they were going to be able to have an opportunity to discuss this issue with the County as a partner in this. When the County actually chooses a site of the approximate seven that have been submitted, will this be something that will be done at an open public hearing so that the neighbors will have the opportunity to comment before the entire Board of Supervisors?

Supervisor Gage responded that at this time, a public hearing is not planned. This is purely an administrative action. However, if it is deemed by the Redevelopment Agency that this action is necessary to come before the Board of Supervisors, that would be fine. If County staff, after its review, decides that the Butterfield site is the preferred site, that will be what he would be recommending to the County, and generally, because this is his district, this would carry a significant amount of weight. He has a long background of 16 years with the City of Gilroy. He understands land use, planning, mitigation, traffic and all other factors. If the Agency Commission is uncomfortable and wants the Board of Supervisors to review the issue, he would take it back to the Board and ask if they want to hear this in a public hearing. He stated that the decision to hold a public hearing would be up to the Board of Supervisors and that it would require a 3-2 vote to do so. He wanted to let the Agency Commission know up front as to his position on this issue.

Chairman Kennedy made a brief comment in response to a couple of statements that were made. He stated that the soccer complex is not leaving. An agreement has been made with the CYSA to extend the lease for at least another year. Regarding the comment about the Council being deceitful, he stated that the Council takes its job very seriously. He does not know of anyone in attendance that consciously or unconsciously does something that is deceitful. It is true that the addition of the courthouse to the Redevelopment Plan came late in the process. It came out of negotiations with the County so that the City could proceed with the Redevelopment Agency. Perhaps, the City could have done a better job with informing the public of what was taking place but that there is also the issue of negotiations with property owners which, out of necessity, have to be confidential because the City has to negotiate the best price for the properties. He said that it was tough to balance the need for confidentiality when the City acquires property versus the public's right to know what is going on. He said that there was no conscious effort to deceive anyone.

Agency Member Chang stated that Supervisor Gage was cooperative when the City tried to get the Redevelopment Agency extension of \$147 million to be passed by the voters. He helped the City and this is one of the major reasons the City is able to proceed with the RDA extension. With the Redevelopment Plan extension, the City will have money for the soccer complex, sports complex,

library, community center, flood control, and economic development. She thanked Supervisor Gage for his support. For this reason, it was her belief that he would be considerate of the citizens' needs regarding the location of the courthouse site.

Vice-chairman Carr inquired if there would be an appeal process that the citizens of Morgan Hill would have, should the County deem this to be an administrative action?

Supervisor Gage responded that this is a planning land use issue for the City. The County is stating that it will build a site based on the City's recommendations. He acknowledged that there is an agreement in place but that he was not going to sue the City as this is not the County's intent. The County's intent in this process is for the City and the County to work together to provide facilities in South County because it is growing at a fast rate, noting that Morgan Hill is the fastest growing City. It is his goal to bring services so that individuals do not have to drive to San Jose, get on the freeways, and fight traffic. The County wants to provide facilities in south county so that citizens can stay in their communities. He said that the County is not trying to be a negative neighbor and that the County could not dictate what should be developed in Morgan Hill. That is one of the reasons the County agreed to the City's site and architectural influence and that is why the County requested that the City identify the sites where it can place the building. The County has identified certain criterion that needs to be met. Several sites were not considered because they were not large enough, while others were not within walking distance from the downtown and would not economically benefit the City. Other sites had no services or had structures that had to be taken down. He stated that the County was not out to get the residents on Butterfield Boulevard. If the residents want to come to the County and want to appeal the site selected, he did not know what is to be appealed as the residents would be appealing the County's desire to build something in this community. If the Agency Commission/City Council does not want the County to do that, the City needs to tell the County that.

Executive Director Tewes stated that there was reference made tonight regarding e-mails. It was his belief that the City received 7-8 e-mails to the City's general e-mail box. These e-mail comments will be passed on to the County as well. Reference was also made to a written report which summarizes the comments from the workshops. This written report is available from the City Clerk's office and is also available on line on the City's web site. He noted that at the outset of the report this evening, staff summarized the agreement and the responsibilities of the City and the County, including the next steps. He appreciated the comments of Supervisor Gage about how the City and County will work together to implement the agreement. Staff has gone through the first of several phases: the first of which is for the city to identify a site, the next step is for the County to select the site, and then the City would have the responsibility, under the agreement, to try and negotiate its acquisition. He also wanted to make sure that individuals understand that a subsequent step mentioned in the staff report is that the County, in any event, at any site, would have to conduct the proper environmental review under the California Environmental Quality Act.

Supervisor Gage stated that one of the comments he heard this evening was that of dishonesty. Another comment was made about the County not caring. He stated that he was born and raised in this community and has lived here all of his life. He did not accept his elected office not to care. He wanted to make it perfectly clear to the residents that this is not a situation where the County is

trying to devalue property values. This situation, at least in his mind, aside from the site, would be a benefit to Morgan Hill. This will in fact allow the County to expand facilities in Morgan Hill, noting that Morgan Hill is centrally located. He stated that the County has been negotiating with the City of San Jose because redevelopment takes away County funds that are used to support communities. The County just signed an agreement with the City of San Jose where they would be relinquishing \$270 million in funds that the County would not otherwise have. The impact to the County from redevelopment in San Jose is \$30 million per year. This means \$30 million that does not go toward services that the County provides to the 15 cities within the county. He felt that this was an important issue and that this was a good partnership between the City of Morgan Hill and the County to do something that mutually benefits both where it was felt that everyone comes out winners.

Agency Member Tate requested clarification of the process. He asked if the City needs to take a position on the land use before it goes to the County?

Supervisor Gage clarified that the process, as it stands now, is that the City has given the County the sites they can choose from. The County has taken public input. The County will come back to the City and tell it what site it will be selecting. The Board has already made the determination and already voted to do this process with Morgan Hill. The Board has already said "yes, we want to do a project which involves redevelopment money and land purchase in Morgan Hill." The County will be coming back to the City and tell the City that a specific site is the preferred site and that it is the one that it wants to build upon. If this is acceptable, the County will go through architectural and site, the environmental process, and prepare traffic studies. These processes have to be done and issues mitigated. The next step would be for County staff to review these comments and come back to the Redevelopment Agency/Council and give it the County's recommendation.

Agency Member Tate stated that it sounds like this is going forward for a determination by the County as to which site they want to build upon. He asked how the public comments would be folded in?

Supervisor Gage stated that the County would take the testimony. He said that concerns relating to security have been reconciled. The County will determine whether or not the site is secure and whether impacts can be mitigated. The County will conduct traffic studies to determine whether or not there is an impact and that it may be a requirement that the road be widened. The County will consider the comments expressed, noting that the County does not look at property values as it is not required to do so by law. Regarding the reference made to the site in San Martin being a shoddy site, he stated that the facility is not one that he is proud of. He stated that the County is not interested in building that kind of a facility and that redevelopment funds would help the County with project cost. In fact, the County will be going out to bond in the fall for \$240 million for capital improvements and that part of the bond would be used to build a new courthouse facility. Because of the growth down here, the County has enough room to expand the courts in San Martin but that it does not have room to expand the other services such as social services. When the County started its discussions years ago, it was felt that it would be a good idea to move the court facility and expand social services.

Agency Member Tate stated that he has heard overwhelming from individuals who do not want the courthouse that it is a passionate issue that boils down to safety. It was pointed out that he campaigned based on safety being one of the issues that he backs the most. One of the reasons the courthouse seemed like a logical choice to him was due to the input received on safety of courthouses in other communities located within Santa Clara County. The crime rates around the courthouses are much lower than other parts of the community. Mr. Benich pointed out that the courthouse needs to be designed right in order to be able to promote a small town feel. He thought that this was a great use to bring to the community and would create a great partnership with the County. Not understanding that in spite of going out and preparing surveys and showing that the other courthouses within the county are safe, there are overwhelmingly strong emotions that it is not a safe thing to do.

Actions: *On a motion by Agency Member Chang and seconded by Agency Member Tate, the Agency Commission unanimously (5-0): 1) **Accepted** the MIG Report and Supplemental Report on the Morgan Hill Courthouse Summary of Community Workshops and 2) **Directed** Staff to Transmit the Report, including the minutes from this evening's meeting, to the Santa Clara County Board of Supervisors for Consideration in Their Development of the Courthouse.*

CONSENT CALENDAR

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Agency Member Tate, the Agency Commission unanimously (5-0) **approved** Consent Calendar Item #2 as follows:*

2. APRIL 2001 FINANCE AND INVESTMENT REPORT

Action: ***Accepted and Filed** Report.*

OTHER BUSINESS (continued):

3. FIRST COMMUNITY HOUSING'S MURPHY RANCH HOUSING PROJECT - Resolution No. MHRA

Agency Member Chang recused herself from this item due to a conflict of interest.

Business Assistance and Housing Services Analyst Newkirk presented the staff report.

Chairman Kennedy opened the floor to public comment. Jeff Oberdorfer, First Community Housing, thanked the City Council for its continued support of this project. He felt that this would be an award winning project, one that everyone will be proud of. He informed the Agency Commission that First Community Housing was informed today, by the California Housing and Community Development Department, that the project has been awarded \$3.285 million from MHP funds. He stated that First Community Housing looks forward to starting construction in September 2001. No other comments were offered.

Action: *On a motion by Agency Member Tate and seconded by Agency Member Sellers, the Agency Commission, on a 4-0 -1 vote with Agency Member Chang abstaining, **Adopted** Resolution No. MHRA - 230 to: 1) **Approve** a \$3.3 Million Loan to First Community Housing (FCH) to Acquire the Site and Develop the First 62 Units of This 100 Unit project; 2) **Authorize** the Executive Director to Modify and Execute Loan Documents as Required, Provided the Approved Loan Amount is Not Exceeded; and 3) **Appropriate** \$3.3 Million from the Unallocated 20% Housing Set-Aside Fund Balance.*

Council Member Chang resumed her seat on the dias.

City Council Action

CONSENT CALENDAR

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **approved** Consent Calendar Item No. 4 as follows:*

4. **APPROVE CHANGE ORDER FOR CONSTRUCTION OF THE EAST DUNNE/101 INTERCHANGE IMPROVEMENT PROJECT**

Actions: 1) **Approved** Change Order to FCI Constructors, Inc. for the Installation of Landscaping and Irrigation for the Dunne Avenue/Highway 101 Interchange Improvement Project in the Amount of \$575,248, and 2) **Approved** an Amendment to the Contract with Vali Cooper and Associates, Inc. for Construction Management and Inspection Services for the Scope of Work by the Amount of \$49,865.

OTHER BUSINESS:

5. **REQUEST FROM MORGAN HILL UNIFIED SCHOOL DISTRICT (MHUSD) TO PARTICIPATE IN PUBLIC IMPROVEMENTS ADJACENT TO BRITTON MIDDLE SCHOOL**

City Manager Tewes presented the staff report.

Director of Public Works Ashcraft indicated that the School District is making substantial improvements to Britton Middle School. The School District has asked the City to consider the replacement of curb, gutter and sidewalk from the pool area to Monterey Road.

Council Member Chang indicated that her office is located within the vicinity and inquired whether she has a conflict of interest.

City Attorney Leichter stated that staff investigated whether a conflict existed. She indicated that both Council Members Chang and Sellers have an indirect economic interest which is not reasonably

forseable. Therefore, she did not believe that either Council Members Chang or Sellers have a conflict of interest.

Martel Taylor, Morgan Hill Unified School District, stated that the School District has received over one-half million dollars in modernization funds from the state that will be spent at Britton Middle School. These are extension of funds that the School District received to improve the auditorium. The School District is continuing with some of this work, including work to the gymnasium and the pool. Some of these funds will be used for ADA accessibility. The School District believes that this would be a great addition/improvement to the facility and the area is also used by community groups (e.g., YMCA, aquatic groups, etc.). He requested that the City participate in extending sidewalk and curb from the pool area to Monterey Road because these facilities are heavily used.

Council Member Tate stated that when this issue was discussed in a City-School Liaison Committee meeting, it was determined that the \$35,000 estimate included improvements in front of the gymnasium and the pool.

Mr. Ashcraft stated that the numbers reviewed by the Liaison Committee was based upon the City going out and solving the safety problems. The City did not know that the School District would be removing the existing curb and gutter in front of the gymnasium and the pool. Therefore, the numbers in the staff report are different from the numbers reviewed in the Liaison Committee. It is staff's belief that the \$35,000 would be sufficient to install the improvements.

Council Member Tate supported the request as the area is heavily utilized by the community and that this is an opportunity to partner with the School District to upgrade an important section of the community.

Mayor Pro Tempore Sellers concurred with Council Member Tate's comment as he is always anxious about the lack of contiguous and adequate sidewalks in the community. He felt that the improvements would be a significant community benefit and was glad that the city has partnered with the School District.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **approved** the allocation of \$35,000 from the Street Maintenance and Improvements funds.*

Redevelopment Agency and City Council Action

CLOSED SESSIONS (continued):

Agency Counsel/City Attorney Leichter announced the below closed session items, including the earlier held closed session item that was continued to the end of the meeting.

2.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code section 54956.9(c) (one case)

3.

CONFERENCE WITH LABOR NEGOTIATOR

Authority:	Government Code Section 54957.6
Agency Negotiators:	City Manager; Assistant to City Manager; City Attorney
Employee Organization:	AFSCME Local 101, Morgan Hill Community Service Officers Association, Morgan Hill Police Officers Association, and Unrepresented Management Employees
	Chief of Police
	Director of Business Assistance & Housing Services
	Director of Community Development
	Director of Finance
	Director of Public Works/City Engineer
	Human Resources Director
	Assistant to the City Manager
	Council Services and Records Manager

Middle Management - Group 1-B
Police Captain
Deputy Director of Public Works
Deputy City Attorney
Deputy Director of Finance
Chief Building Official
Human Resources Supervisor
Planning Manager
Recreation Manager
Senior Civil Engineer
Budget Manager
Business Assistance and Housing Services Manager
Police Support Services Supervisor
Senior Planner
Utility Systems Manager
Recreation Supervisor
Secretary to the City Manager

4.

CONFERENCE WITH LEGAL COUNSEL (POTENTIAL LITIGATION) & CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority:	Government Code 54956.8 & 54946.9(c)
Property:	APN 825-06-002, 003, 029, 030; 36.6 acres (Railroad/Maple - Butterfield Retention Basin Site)
Negotiating Parties:	
For City:	City Manager; Public Works Director
For Property Owners:	Costa Family Partners
Closed Session Topic/Under Negotiation:	Potential Litigation & Price and Terms of Payment

OPPORTUNITY FOR PUBLIC COMMENT

Chairman/Mayor Kennedy opened the closed session items to public comment. No comments

were offered.

ADJOURN TO CLOSED SESSION:

Chairman/Mayor Kennedy adjourned the meeting to closed session at 9:05 p.m.

RECONVENE:

Chairman/Mayor Kennedy reconvened the meeting at 9:41 p.m.

CLOSED SESSION ANNOUNCEMENT:

Agency Counsel/City Attorney Leichter announced that no reportable action was take on the above listed closed session items.

FUTURE AGENCY-INITIATED AGENDA ITEMS:

No items were identified.

ADJOURNMENT

There being no further business, Chairman/Mayor Kennedy adjourned the meeting at 9:42 p.m.

MINUTES RECORDED AND PREPARED BY:

Irma Torrez, Agency Secretary/City Clerk